

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

DENNIS KOZUBAL,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

Case No.

Jury Trial Demanded

COMPLAINT

Plaintiff Dennis Kozubal, through counsel, hereby alleges as follows for his Complaint against Defendant United States of America:

1. On June 25, 2020, Mr. Kozubal was driving his Ford F-150 pick-up truck northbound on Lake Kenoyer Road in Newton County, Indiana. United States Postal Service (“USPS”) employee Wayne Schriner was carrying mail and driving his USPS vehicle southbound on the same road.

2. When Mr. Kozubal approached a slight turn in the road, he saw Mr. Schriner’s vehicle driving in an erratic pattern. Mr. Kozubal steered his truck to the right side of the road until it was completely off the road. At that time, Mr. Schriner’s vehicle struck Mr. Kozubal’s truck.

3. Mr. Schriner’s USPS vehicle, a 2018 Subaru, was modified so that he could drive on the right side of the vehicle. Mr. Kozubal believes that the modifications to Mr. Schriner’s USPS vehicle were improper and that Mr. Schriner was unable to control the vehicle.

4. As a result of the collision, Mr. Kozubal suffered bodily injury and lost personal property, including the contents of his truck. His dog was injured, and Mr. Kozubal incurred

veterinary bills as a result. Being without a working truck for a month following the accident, Mr. Kozubal was unable to attend to projects and maintenance work. Mr. Kozubal still had to pay an additional \$27,000 to purchase a replacement truck.

5. In accordance with the Federal Tort Claims Act, 28 U.S.C. § 2671 *et seq.*, Mr. Kozubal timely filed an administrative claim on account of the foregoing. By letter dated May 25, 2021, the USPS denied Mr. Kozubal's claim because Mr. Kozubal had "filed a claim with his insurance carrier."

6. Mr. Kozubal, in turn, filed a complaint in the Newton Superior Court. The United States removed the action to this Court and stepped into the shoes of Mr. Schriner and the USPS for purposes of the litigation, in the matter docketed in this Court under Case No. 21-217. Mr. Kozubal did not dispute removal and voluntarily dismissed Case No. 21-217 so that he could timely, and unequivocally, invoke federal jurisdiction in advance of the six-month deadline set in 28 U.S. Code § 2401.

7. Because all statutory prerequisites have been satisfied, Mr. Kozubal's claims are ripe for judicial review. Mr. Kozubal prays for swift relief.

COUNT I Negligence

8. Mr. Kozubal incorporates the allegations in the foregoing paragraphs as if fully set forth herein.

9. Mr. Schriner, a USPS employee carrying mail on an Indiana roadway, owed Mr. Kozubal a duty of reasonable care during the events described herein.

10. Mr. Schriner breached that duty, including by failing to maintain control of his modified USPS vehicle, losing control of that vehicle, moving into the opposing lane of traffic,

failing to maintain a proper lookout, failing to yield, and ultimately colliding with Mr. Kozubal's truck.

11. Mr. Kozubal used his best efforts to avoid a collision, including by steering his truck to the right side of the road and off the road.

12. Mr. Schriner caused the accident by losing control of his USPS vehicle, steering into the opposing lane of traffic, failing to maintain a proper lookout, failing to yield, and ultimately colliding with Mr. Kozubal's truck, all despite Mr. Kozubal's efforts to avoid a collision.

13. The accident damaged Mr. Kozubal as described herein.

WHEREFORE, Mr. Kozubal requests that the Court enter judgment in his favor and against the Defendant, and award him monetary damages, prejudgment interest, costs of suit, and all other relief that the Court may deem just and proper.

Jury Demand

Pursuant to Fed. R. Civ. P. 38 and the Seventh Amendment to the United States Constitution, Mr. Kozubal demands trial by jury of all issues so triable.

Dated: November 24, 2021

By: /s/ Daniel I. Faichney

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